



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **PSF, LRE, FFT**

Introduction

This hearing dealt with an application by the tenants pursuant to the Residential Tenancy Act (“the Act”) for orders as follows:

- requiring the landlord to provide services or facilities as required by the tenancy agreement or law
- suspending or setting conditions on the landlord’s right to enter the rental unit or site
- recovery of the filing fee for this matter

Landlord JZ and tenants JM and JH appeared. All parties were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses.

Both parties confirmed they were not recording the hearing pursuant to RTB Rules of Procedure 6.11. The parties were affirmed.

The parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with sections 88 and 89 of the Act.

Issue(s) to be Decided

1. Is the tenant entitled to an order requiring the landlord to provide services or facilities as required by the tenancy agreement or law?
2. Is the tenant entitled to an order suspending or setting conditions on the landlord’s right to enter the rental unit or site?
3. Is the tenant entitled to recover the filing fee for this application?

Background and Evidence

The tenancy commenced November 14, 2021, for a fixed term until November 30, 2022. Rent is \$1,425.00 per month and the tenants paid \$1,425.00 for both security and pet deposits. The tenants still occupy the residence. A written tenancy agreement was produced in evidence.

The tenants submitted that the landlord was unhappy with the tenants' cats using the backyard of the residence. The tenants understood that there was a verbal agreement between them and the landlord that the cats could be outside. The tenants produced pictures in evidence showing the cats in the backyard and stated that the cats have always used the backyard and it had not been an issue with the landlord until recently. The tenants also produced a warning letter in evidence that was taped to the door of the rental unit reminding the tenants that the tenancy agreement specifically states that the cats are to be kept indoors.

The tenants also stated that they wished to restrict the landlord from entering the rental unit. On June 22, 2022, the tenants were given a notice to enter the rental unit however the tenants felt the landlord was rude and did not want her in the rental unit. The tenants argued the landlord has tried to enter the rental unit when the fire alarm would go off. Specifically on June 24, 2022, the alarm went off at 2:00am and the landlord accused the tenants of setting off the alarm in text messages. The tenants also alleged the landlord bangs on the door at unreasonable hours.

The parties confirmed the landlord had not actually entered the rental unit; however, the tenants feel that the landlord is harassing them and making them feel unsafe through her behaviour. The landlord has also stood in the way of the tenants when they have tried to enter the rental unit on two occasions. The tenants also stated that there was a conversation which occurred on October 1, 2022, between themselves and the landlord, where the tenants felt that the landlord was threatening them.

The tenants also provided photographic evidence of the placement of a surveillance camera and state that the placement of the camera unreasonably overlooks into the rental unit.

The landlord disputes that there was an agreement to allow the cats in the back yard. The landlord provided statements written by her stating the cats are not to be outdoors. With respect to the smoke detector, the landlord was concerned when it went off and

felt there could have been an emergency and therefore wished to enter the rental unit. The tenants had advised the landlord they were non-smokers, and the landlord has seen the tenants smoking outside and raised concerns that the smoking might be happening in the rental unit as well. The landlord stated that she did not try to enter the rental unit without giving proper notice. She gave written notice to enter the rental unit on June 23, 2022, with a request to enter June 24, 2022.

Analysis

RTB Policy Guideline 7 states:

At common law, the tenant has a right to quiet enjoyment and peaceful occupation of the premises. At the same time, the landlord has the right to enter under certain conditions. The Residential Tenancy Act (the Act) addresses the rights and obligations of landlords and tenants with respect to entry into a rental unit.

A landlord must not enter a rental unit in respect of which the tenant has a right to possession unless one of the following applies:³

- an emergency exists and the entry is necessary to protect life or property,
- the tenant gives permission at the time of entry, or
- the tenant gives permission not more than 30 days before the time of entry,
- the landlord gives the tenant written notice not less than 24 hours, and not more than 30 days before the time of entry.

Based on the undisputed evidence of the parties, the landlord has not entered the rental unit without first giving prior notice to the tenants of an intention to do so. Both parties agree that the tenants were issued a notice to enter, although they disagree on the date that it was provided by the landlord. I find based on the undisputed evidence of the parties that the landlord was wishing to enter the rental unit to check on a smoke detector that was going off. The landlord has a right to protect their property and make inquiries regarding warning systems going off such as a smoke detector in the residence. I find that the landlord acted reasonably in trying to determine the cause of the smoke detector being triggered and did not attempt to enter the unit without first providing notice.

I find that the tenant has not established that the landlord was acting unreasonably in trying to enter the rental unit.

The tenancy agreement provided in evidence states clearly in clause 4 that the tenants are permitted to have two indoor animals. The parties agree that the landlord issued a warning

notice to the tenants reminding them of this clause and that the cats must remain indoors. I have no evidence before me establishing that the landlord and tenants modified that clause of the tenancy agreement. The landlord is therefore entitled to require the tenants to abide by that clause of the tenancy agreement.

I find that the tenant has not established that the landlord should be required to provide services or facilities as agreed upon in the tenancy agreement or by law, as there was no agreement between the parties to allow the cats to use the outdoor space.

The tenants did not address the security camera placement issue in their oral evidence. I find based on the written evidence provided that the tenants have not established that the security camera unreasonably interferes with their quiet enjoyment of the rental unit.

I dismiss the tenants' application in its entirety. As the tenants were unsuccessful in their application, they are not entitled to recover the filing fee for this matter.

Both parties are reminded that the nature of shared rental spaces require a mutual respect and understanding of the realities that accompany city living, which includes but is not limited to reasonable noise levels and unreasonable disturbances.

Conclusion

The tenants' application is dismissed.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: December 14, 2022

Residential Tenancy Branch